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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,689	01/21/2004	Frank Clark	CLARK1180	5264
25548	7590	03/08/2006	EXAMINER	
DLA PIPER RUDNICK GRAY CARY US, LLP 4365 EXECUTIVE DRIVE, SUITE 1100 SAN DIEGO, CA 92121-2133			LEE, GUNYOUNG T	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding..

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<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/762,689	CLARK, FRANK	
	Examiner	Art Unit	
	Gunyoung T. Lee	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>01/21/2004</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. The claims must be given their broadest reasonable interpretation. See MPEP § 2111.

### *Drawings*

2. The drawings are objected to under 37 CFR 1.83(b) because they are incomplete: (a) There are indication **lines without reference characteristics** in Fig. 1, Fig. 5 and Fig. 6, and (b) The feature indicated by the reference number "156" in Fig. 4 **is not clearly visible** (understandable).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the

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examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. Applicant is reminded to update the first paragraph of the specification (page 1, paragraph 0001) with United States patent number "6,983,898" instead of United States patent serial number "10/443,300" and United States publication number "2004/0250851" instead of United States patent serial number "10/443,405".

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. A preamble is not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure (see MPEP § 2111). The information in the preamble is not further given any patentable weight.

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6. The functional statement that does not direct to structural limitations of an apparatus has not been given any patentable weight (see MPEP § 2114). The functional statements in the claims are not further given any patentable weight.

7. Claims 1-2, 5-6 and 8-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Bolson (US 4,564,889).

8. Bolson discloses a hydroelectric illumination device (Fig. 1).

9. In regards to claim 1, Bolson discloses:

- A showerhead (Fig. 1) (Abstract, lines 1-4);
- A fluid driven power supply (Fig. 2, 21, 22, 23) (col. 2, lines 14-17) configured to receive incoming fluid and release outgoing fluid to the showerhead (Fig. 1) (col. 3, line 29 – col. 4, line 5);
- One or more lights (Fig. 2, 34) electrically connected (37, 38) to the fluid driven power supply (21, 22, 23).

In regards to claims 2, 5-6 and 8-11, Bolson further discloses:

- (Claim 2) wherein the fluid driven power supply (Fig. 2, 21, 22, 23) is a water driven turbine (col. 3, lines 33-39) that includes a housing (30, 15) having an internal fluid path with a fluid inlet (13) and a fluid outlet (29); a rotatable turbine wheel (22) positioned in the internal fluid path; a generator (23) positioned proximate the housing; and a turbine shaft (25) connecting the rotatable turbine (22) wheel and generator (23);

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- (Claims 5, 6) wherein one or more lights produce and illuminate fluid released by the showerhead (col. 2, lines 23-27);
- (Claims 8, 11) wherein the showerhead is formed from an optical lens (Fig. 2, 32) which is inherently translucent;
- (Claims 9, 10) wherein one or more lights are integral to the optical lens (Fig. 2, 32) (col. 4, lines 6-7).

10. Claims 12-13, 15-16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Bolson (US 4,564,889).

11. Bolson was discussed in the rejection of claim 1 above.

12. In regards to claim 12, Bolson discloses:

- A hollow body (Fig 2, 32) formed from a translucent material (col. 3, lines 13-14), the hollow body (32) being configured to receive incoming fluid and to release outgoing fluid (col. 3, line 41 – col. 4, line 5);
- One or more lights (Fig. 2, 34) attached to the hollow body (32);
- A fluid driven power supply (Fig. 2, 21, 22, 23) for powering one or more lights (col. 3, lines 33-39)
- Wherein the fluid driven power supply (Fig. 2, 21, 22, 23) configured to receive inlet fluid from a fluid source (13) and release fluid to the hollow body (32).

In regards to claims 13, 15-16 and 18, Bolson further discloses:

- (Claim 13) wherein the fluid driven power supply (Fig. 2, 21, 22, 23) has a water driven turbine (col. 3, lines 33-39) having a housing (30, 15) having an internal

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fluid path with a fluid inlet (13) and a fluid outlet (29); a rotatable turbine wheel (22) positioned in the internal fluid path; a generator (23) positioned proximate the housing; and a turbine shaft (25) connecting the rotatable turbine (22) wheel and generator (23);

- (Claims 15, 18) wherein one or more lights are integral to the hollow body (Fig. 2, 32) (col. 4, lines 6-7).
- (Claim 16) wherein one or more lights illuminate fluid released by the hollow body (Fig. 2, 32) (col. 2, lines 23-27).

13. Claims 19-20 and 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Bolson (US 4,564,889).

14. Bolson was discussed in the rejections of claims 1 and 12 above.

15. In regards to claim 19, Bolson discloses:

- A water inlet (Fig. 2, 13);
- A water outlet (Fig. 2, 29);
- An inline water driven power supply (Fig. 2, 21, 22, 23) located between the water inlet (13) and the water outlet (Fig. 1, 39);
- Wherein the inline water driven power supply (Fig. 2, 21, 22, 23) being configured to receive an incoming water flow from the water inlet (13), generate electrical power from the incoming water flow and release an outgoing water flow to the water outlet (Fig. 1, 39) (col. 3, line 41 – col. 4, line 5).

In regards to claims 20 and 22-24 , Bolson further discloses:

- (Claim 20) wherein the inline water driven power supply (Fig. 2, 21, 22, 23) have a water driven turbine (col. 3, lines 33-39) having a housing (30, 15) having an internal fluid path with a fluid inlet (13) and a fluid outlet (29); a rotatable turbine wheel (22) positioned in the internal fluid path; a generator (23) positioned proximate the housing; and a turbine shaft (25) connecting the rotatable turbine (22) wheel and generator (23);
- (Claim 22) one or more lights (Fig. 2, 34) powered by the inline water driven power supply (Fig. 2, 21, 22, 23) (col. 3, lines 33-39);
- (Claim 23) A translucent showerhead (Fig. 2, 32) located between the water inlet (13) and the water outlet (Fig. 1, 39), wherein one or more lights illuminate the translucent showerhead (32) (col. 4, lines 6-7);
- (Claim 24) A translucent showerhead (Fig. 2, 32) located between the water inlet (13) and the water outlet (Fig. 1, 39), wherein one or more light illuminate outgoing fluid emitted from the showerhead (col. 2, lines 23-27).

16. Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Allen et al. (US 2003/0147238).

17. Allen et al. disclose a hydroelectric generator system (Fig. 1).

18. In regards to claim 1, Allen et al. disclose:

- A showerhead (Fig. 1, 10) (paragraph 22, lines 1-4);
- A fluid driven power supply (Fig. 3, 30) configured to receive incoming fluid and release outgoing fluid to the showerhead (paragraph 21, lines 1-10);



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- One or more lights (Fig. 3, 245) electrically connected to the fluid driven power supply (30).

In regards to claim 7, Allen et al. further disclose:

- Wherein one or more lights (Fig. 3, 245) have one or more light emitting diodes (paragraph 28, lines 8-9).

### ***Claim Rejections - 35 USC § 103***

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bolson (US 4,564,889) as applied to claim 1 above, and further in view of Fraser (US 2,448,792).

21. In regards to claim 3, Bolson discloses the invention substantially as claimed except for a fluid flow valve. Fraser discloses a showerhead (Fig. 2) having a fluid flow valve (J, J2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the fluid flow valve of Fraser for the hydroelectric illumination device of Bolson to adjust the amount of fluid (water) for the

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purpose of preventing waste of water by controlling the amount of water discharged from the showerhead.

22. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bolson (US 4,564,889) as applied to claim 1 above, and further in view of Kehat (US 6,021,960).

23. In regards to claim 4, Bolson discloses the invention substantially as claimed except for a rechargeable battery. Kehat discloses a colored light showerhead (Fig. 5) having a rechargeable battery (25) and a light source (11). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the rechargeable battery of Kehat for the hydroelectric illumination device of Bolson and electrically connect with the light source and the fluid driven power supply to provide light when the fluid (water) is not running. This will increase the safety of the user by providing the illumination before or after shower when there is no power generated by the fluid driven power supply due to no fluid (water) running.

24. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bolson (US 4,564,889) as applied to claim 12 above, and further in view of Kehat (US 6,021,960).

25. In regards to claim 14, Bolson discloses the invention substantially as claimed except for a rechargeable battery. Kehat discloses a colored light showerhead (Fig. 5) having a rechargeable battery (25) and a light source (11). Therefore, it would have

been obvious to one of ordinary skill in the art at the time the invention was made to use the rechargeable battery of Kehat for the hydroelectric illumination device of Bolson and electrically connect with the light source and the fluid driven power supply to provide light when the fluid (water) is not running. This will increase the safety of the user by providing the illumination before or after shower when there is no power generated by the fluid driven power supply due to no fluid (water) running.

26. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bolson (US 4,564,889) as applied to claim 19 above, and further in view of Kehat (US 6,021,960).

27. In regards to claim 21, Bolson discloses the invention substantially as claimed except for a rechargeable battery. Kehat discloses a colored light showerhead (Fig. 5) having a rechargeable battery (25) and a light source (11). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the rechargeable battery of Kehat for the hydroelectric illumination device of Bolson and electrically connect with the light source and the fluid driven power supply to provide light when the fluid (water) is not running. This will increase the safety of the user by providing the illumination before or after shower when there is no power generated by the fluid driven power supply due to no fluid (water) running.

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28. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bolson (US 4,564,889) as applied to claim 12 above, and further in view of Allen et al. (US 2003/0147238).

29. In regards to claim 17, Bolson discloses the invention substantially as claimed except for light emitting diode (LED) lighting elements. Allen et al. disclose a hydroelectric generator system (Fig. 3) having light emitting diode lighting elements (245) (paragraph 28, lines 8-9) positioned outside of the fluid path. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the LED lighting elements of Allen et al. for the hydroelectric illumination device of Bolson to provide lights without interrupting the flow of water and with a low power consumption for the purpose of providing sufficient water pressure through the outlet and prolonged service time with a low power consuming LED lighting elements.

### ***Conclusion***

30. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Portyrata (US 3,845,291), Bolson (US 4,616,298) and Spiller (US 6,036,333) show fluid driven lighting devices have a fluid driven power supply and a lighting element (s).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gunyoung T. Lee whose telephone number is (571) 272-8588. The examiner can normally be reached between 7:30 - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea can be reached at (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GTL  
3/2/2006



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